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Reply to Office Action of June 16, 2005

REMARKS/ARGUMENTS

Prior to this Amendment, claims 1-5, 7, 8, 12-14, 16-18, 22, 23, and 25 were pending in the application.

Only claim 22 is amended, with the amendment being provided to correct claim dependency so as to place claim 22 in condition for allowance or in proper form for use on appeal. No substantive claim amendments are made with this response that would raise new issues for the Examiner.

In the Office Action mailed June 16, 2005, the rejection of claims 7, 8, and 10 as being obvious in light of U.S. Patent No. 5,752,042 ("Cole") in view of U.S. Patent No. 6,434,532 ("Goldband") was withdrawn. However, these claims now stand rejected based on the combination of Cole, Goldband, and U.S. Patent No. 5,247,683 ("Holmes"). This and other claim rejections are traversed based on the following remarks.

Claim Rejections Under 35 U.S.C. §103

The Office Action rejected claims 1-8, 10, 11, 14, 16-18, 20, and 22-24 under 35 U.S.C. §103(a) as being unpatentable over Cole in view of Goldband and in further view of Holmes. The rejection of these claims is traversed based on the following remarks.

Initially, independent claims 1 and 23 call for the computing environment information to include thresholds based on the configuration of the host device and the "automated configuring comprises modifying the installed software payload based on the thresholds" (for claim 1). Claim 23 further calls for the thresholds to be calculated by the survey tool installed in the host device. The Office Action refers briefly to version information, but Applicant asserts that version information does not teach the "thresholds" of claim 1. The Response to Arguments states that version information (for which Holmes is cited) teaches thresholds as this is merely a number not to be exceeded. However, Applicant disagrees that a version number could be considered a threshold for use by systems management software, i.e., the

payload being installed on the host device).

Further, claim 1 calls for modifying the installed software payload "based on the thresholds", which would not make sense if the threshold was a version number, i.e., you would select a version of a software payload for installation but not modify installed software to be a second version. Claim 23 calls for the thresholds to be "calculated", and there is no reason to calculate a version number with a survey tool as it can simply be read (but, a software version on a host device may be read and used in calculating or selecting a threshold for systems management software or at least in use in selecting an agent to download).

Holmes is cited for teaching the threshold determination and use, but Holmes at col. 1 lines 26-28 and 35-38 discusses drivers and buffers. This provides no suggestion of thresholds that are gathered and/or collected by a survey tool and then used in configuring installed systems management software based on such thresholds. Further, as discussed above, Holmes fails to teach configuring or modifying installed software to suit a workstation but instead teaches changing the configuration of the workstation to suit the installed software, and hence, Holmes does not provide any relevant teaching for configuring installed software and particularly, based on thresholds. Because each of the calculation and use of thresholds for modifying features are not shown in the combined teaching of Cole, Goldband, and Holmes, the obviousness rejection based on these references should be withdrawn for claims 1 and 23.

Independent claims 1, 7, 14, 18, and 23 each include limitations that require that the installed software payload be configured or modified based on the computing environment information.

With the Office Action dated December 22, 2004 and as repeated in the June 16, 2005 Office Action, the Examiner indicates that Cole fails to teach that the installed software payload is configured based on computing environment information. In rejecting claims 1 and 11, the Examiner asserts that Holmes

teaches configuring an installed software payload based on the host device computing environment in Figure 3, element 58, col. 1, lines 26-28 and 35-38 and in the Response to Arguments of June 16, 2005, the Examiner maintains this assertion by stating that configuring software is shown in Figure 3, element 32 ("Build file for new software."). However, step 32 is described in col. 5, lines 32-41 as "the configuration build file associated with that new software file is read", with the new software file being "transmitted to the workstation."

Holmes fails to teach or even suggest that installed software is loaded to suit the host device or system and then configured to suit that host device or system. Instead, Holmes clearly describes reconfiguring the host device itself to be able to run the software. This is a very different solution to the problem of how to get loaded software to operate, and it is not applicable to the loading and running of systems management platforms which need to manage an operating device or system and typically cannot be installed "as is" with bugs and problems often needing to be resolved (for example, read Applicant's statement of the problem being addressed by his invention at page 2, line 29 to page 4, line 28). Hence, Holmes does not teach that the installed software payload be configured or modified based on the computing environment information as called for in claims 1, 7, 14, 18, and 23 (and neither do Cole or Goldband), and Applicant requests that the rejection of these claims based on Holmes, Cole, and Goldband be withdrawn.

More specifically, Holmes in the first paragraph of its Summary describes transmitting software with a configuration build file to a system, finding other software configuration build files, combining the configuration build files, and "reconfiguring said workstation using said composite configuration build files" (emphasis added). There is no discussion here or elsewhere in Holmes of modifying the transmitted software but instead the workstation is configured to be able to run the software. As a further example, at col. 4, lines 54-68, Holmes describes configuring the device buffers to meet the needs of the installed software

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but does not discuss altering the installed software to suit the device computing environment. Note, the configuration build file defines the requirements of the software and is not developed to suit the workstation.

With regard to independent claim 7, claim 7 calls for selecting payloads for two host devices based on computing environment information gathered from each host device. Further, claim 7 also calls for "after the installing of the transferred payloads, configuring the installed payloads at the first and second ones based on the differing environment." Hence, the method involves both selecting a payload of software based on the particular device's operating environment and also, configuring the software payload after installation based on that operating environment. The art of record fails to show or suggest these features of the claimed method, and hence, the rejection of this claim should be withdrawn.

Claim 7 includes limitations that make it clear the method is directed toward remotely managing the installation of the software payload from an installation station. Cole, in contrast, teaches that installation is performed solely by the download routine and service application in the client 14 (see Figure 1 and corresponding text), and this deficiency is not overcome by the teaching of Goldband or Holmes. Hence, in "contrast to prior art installation methods, the method is not host-based" (see, Applicant's specification at lines 19-20 of page 5).

Specifically, claim 7 calls for "in response to receiving the installation requests, establishing with the installation station a first active installation session and a second active installation session" and then "the transferring and installing of the payloads is remotely managed with the first and second active installation sessions at the installation station." Cole teaches that the client must send a selection to a server, the server provides addresses for the selected code updates, and then the download routine on the client acts to download the code updates from the content server, and this different then providing control by a single remote installation station over transmitting and installing.

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In the Response to Arguments of the December 22, 2004 Office Action, the Examiner states that it is immaterial whether a client is involved, but this argument ignores the language of claim 7 that calls for an installation station and the use of a survey tool and an installation tool at the managed hosts to perform remote installation. The Response to Arguments of the June 16, 2005 Office Action, states that in a broadest interpretation of the claim 7 language only requires remote installation managed by "something" and the "something" was argued to be shown by the cited portions of Figures 1 and 2 of Cole. However, as discussed above, Cole teaches that installation is performed solely by the download routine and service application **in the client 14** (see Figure 1 and corresponding text), and Applicant could find no management of installation outside of the client at all, i.e., Applicant could not find the "something" let alone a teaching of an "installation station" and use of installation sessions to manage installation remotely. For these reasons, each element of claim 7 is not shown by the combination of Cole, Holmes, and Goldband, and the rejection of claim 7 should be withdrawn as improperly supported by the references.

In addition to the reasons provided above for allowing claim 1, the following remarks provided in the prior responses are still applicable and are presented for completeness and clarity:

"Turning to Cole, the service application is described in col. 6, lines 46-55 as being responsible for installing "the code updates" in the client 14. The service application "replaces the stale file with the updated file" and then, the "client is request to re-boot, and the operating system installs the listed code updates during the re-boot." There is no teaching that the service application second operates to configure the installed code updates. Cole further fails to teach that such configuring of the installed software payload is "based on the computing environment information" previously collected. It should be noted that Cole is directed toward identifying updated versions of

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already running software or updated or new versions of portions of software
packages and not a new package of software (see claim 23 where this "new"
feature is specifically claimed), and it is likely that the replacement versions
are written to run properly in most systems in which the prior version ran (or
manual configuration steps are typically provided or additional code
provided).

Further, claim 1 calls for installation to be performed "automatically" by
operation of the installation tool. In contrast, Cole teaches at least at col. 6,
line 23, that the a list of potential code updates are presented to the user of
the client 14, 15, 16 and then the client must make a selection. Hence, the
skill of the operator comes into play in the effectiveness of the updating
procedure as they client needs to select or approve proper code for
installation. For at least these two reasons, claim 1 is allowable over Cole.

In the second point of the Response to Arguments, the Office Action stated
that Applicant argued that Goldband does not teach "automatically".
However, in the prior response, it was argued that Goldband fails to
overcome the deficiencies of Cole, and claim 1 is believed allowable over the
combination of Cole and Goldband. Specifically, Goldband was noted as
only being cited for the concept of loading an installation agent or module
onto a client from a remote location. Such installation by the agent may be
"automated" but this does not teach Applicant's claimed invention. Goldband
does not teach operating such an installation agent to configure the software
after installation based on the previously collected computing environment
information for the client or host. Clearly, Goldband does not teach that
configuration includes modifying software after installation based upon
thresholds noted in the configuration of a host device. The combination of
Cole and Goldband fail to teach or suggest each feature of claim 1."

In the last two Office Actions, Holmes is not cited for overcoming these

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deficiencies of Cole and Goldband, and Holmes does not provide the missing teaching of these references.

Claim 1 also calls for the installation station to perform "selecting the software payload from the differing ones based on the received computing environment information." Cole teaches that a list of potential code updates is created based on the operation of recognizer programs 42 (see col. 5 13-41 with reference to Figure 4), and then, the client must select the "payload" from this list and "In response, the server 12 sends to the client 14 the FTP addressing information for the selected code updates" (see, col. 6, lines 23-30). The client performs the selecting of the payload from a narrowed list provided the selection server 12 but the selection server does not create and deliver the payload without operator intervention.

The Response to Arguments of the December 22, 2004 Office Action indicates that the client or operator is the installation station but Applicant continues to assert that Cole fails to teach creating and delivering a software payload <u>with an installation station</u>. The Response to Arguments of the June 16 Office Action states that "recognizer and scout programs are sent as payload", but, at best, the recognizer and scout programs may be likened to the "survey tool 172" in Applicant's Figure 1 and do not disclose "transmitting <u>a software payload comprising the systems management software</u> from the installation station to the host device" "wherein the installation station accesses data storage storing differing ones of the systems management software and<u> selects the software payload from the differing ones based on the received computing environment information</u>" as called for in claim 1.

Claims 2-5 depend from claim 1 and are believed allowable at least for the reasons for allowing claim 1. Additionally, claim 2 calls for the computing environment to include "identification of modules for monitoring the host device." Cole and Goldband are not directed toward installing monitoring software and

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hence, fail to provide any teaching toward gathering such information about a host
device (e.g., Cole simply states that it collects "basic system information using
scout APIs" that comprises "system model, pre-load software level, BIOS level, and
information that is not likely to change often such as type of operating system").
The Response to Arguments states that the "recognizer" program of Cole teaches
the limitation of claim 2, the recognizer program 42 does not function as a
monitoring tool but instead operates as discussed in detail in Cole from col. 5, lines
18-67 for recognizing version numbers of installed software and interacting with the
scout program 33. For this additional reason, claim 2 is allowable over Cole,
Goldband, and Holmes.

Independent claim 14 is directed to a method with limitations similar to claim
1 but further calls for "performing modifications of the installed agent software
based on the output file to enhance operation of the installed agent software." In a
prior Response to Arguments, the Examiner indicated that Goldband teaches
installing a patch or update that enhances system operation. See, Goldband at col.
2, line 15-17. However, installing upgrades or patches is not the same as
performing modifications of installed software "based on the output file" with an
installation Daemon. The installed software of claim 14 may include or be a patch
or update, but claim 14 requires more in that the method must include modifying the
installed software with the installation Daemon – not with more installations of
software – based on the output file. In the Office Action, Holmes is instead cited for
configuration of installed software, but as discussed above, fails to provide such
teaching.

In the June 16, 2005 Office Action, the Response to Arguments states that
"Holmes demonstrated modification as indicated above" but, as discussed above in
reference to claim 1, Holmes teaches modifying a workstation to operate software
NOT "performing modifications of the installed agent software" to "enhance
operation of the installed agent software." Applicant requests that a more specific

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citation in Holmes be provided where Holmes teaches modifying installed agent software, and particularly, modifying of installed agent software based on an output file including the computing environment of the device upon which the agent software is installed.   For these additional reasons, claim 14 is not made obvious by the teaching of Cole in view of Goldband and Holmes. Claims 16-17 depend from claim 14 and are believed allowable as depending from an allowable base claim. Additionally, see the reasons for allowing claim 2.

Independent claim 18 is directed to a network system adapted for monitoring an operating computer system. Claim 18 calls for the installation tool to modify the installed systems management software based on collected environment information. Hence, as with claim 1, the software may be "pre-configured" but it is also modified after installation, which is not shown by Cole or Goldband or Holmes. The Response to Arguments section of the June 16, 2005 Office Action again cites Holmes as providing such modifying, but Applicant believes this is not true as discussed above with reference to claim 14.

Further, Cole and Goldband fail to teach transmitting a payload including systems management software to a host and then using such software to monitor the device with a remote service. Cole provides a method for installing code updates, and Goldband teaches using an installed agent to determine when updates and the like are required in a client device. Neither discusses a remote service monitoring the client device via an installed management software package. Hence, claim 18 is not taught or even suggested by the combination of Cole and Goldband. The Response to Arguments again points to the scout and recognizer programs of Cole, but as discussed above with reference to claim 2, these programs do not teach ongoing monitoring of a device by a remote service with systems management software.

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The remarks provided with reference to claim 1 are believed equally applicable to claim 23. Claim 23 calls for the environment information to include "thresholds" and the configuring to be performed based on such thresholds. Cole Goldband, and Holmes do not teach gathering threshold information or using it to configure already installed software.

Claims 8, 12, and 13 depend from independent claim 7 and are believed allowable as depending upon an allowable base claim. Similarly, claims 16 and 17 depend from independent claim 14 and are believed allowable as depending from an allowable base claim. Claim 22 depends from independent claim 18 and is believed allowable at least for the reasons provided for allowing claim 18.

Further, in the June 16, 2005 Office Action, claim 25 (Applicant believes it was a typographical error to include claims 1-6, 11, and 14-24 in the rejection on page 20 as no discussion was provided except for claim 25) was rejected under 103(a) as being unpatentable over Cole in view of Goldband and in view of Holmes and further in view of U.S. Pat. No. 5,421,009 ("Platt"). This rejection is traversed based on the following remarks.

As with independent claims 1 and 7, claim 25 includes the limitation of second operating an installation tool to automatically configure an installed software payload based on computing environment information. Hence, the reasons for allowing claims 1 and 7 over Cole, Goldband, and Holmes are applicable to claim 25. Platt is cited for teaching "determining necessary commands from surveying a target system" and not for teaching configuring installed software and Applicant did not find such teaching in Platt. Hence, Platt fails to overcome the deficiencies of the other cited references, and the rejection should be withdrawn.

Further, claim 25 calls for a survey tool to determine commands to run during installation of the software payload, which is clearly beyond the "basic" information collected in Cole. These commands are then run during installation by the installation tool. Platt's teaching at the cited col. 2, lines 12-18 is directed to booting an operating system and fails to teach commands to run during installation of a software payload, which is further defined in claim 25 to better **distinguish such a payload from an operating system** (although Platt is still cited even though it is directed to booting an OS).

The Response to Arguments of the June 16, 2005 Office Action asserts that "Platt ensure commands exist for installation and therefore, Platt necessarily discloses commands to run during installation." However, Platt merely states at col. 2, lines 16-18 that its method involves ensuring "that the remote computer system has all the standard operating system commands necessary to perform the installation." Platt teaches booting of an operating system with standard operating system commands and fails to show "operating the survey tool to gather environment information for the host device and to determine commands to run during installation of the software payload on the host device" at least because it does not teach collecting environment information and then determining commands but instead teaching simply looking for an existence of standard operating system commands for use in booting the OS (i.e., the commands are pre-determined and are simply verified as being present and do not depend upon gathered environment information). For these additional reasons, claim 25 is believed allowable over the combination of Cole, Goldband, Holmes, and Platt.

Yet further, the Office Action rejected claims 12 and 13 as being unpatentable over Cole in view of Goldband and further in view of "Microsoft Computer Dictionary". Claims 12 and 13 depend from claim 7, which as discussed above, is allowable over Cole and Goldband. The Microsoft Computer Dictionary is not cited for overcoming the shortcomings of Cole and Goldband discussed with

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reference to claim 7, and Applicant believes this reference does not address these shortcomings. Hence, claims 12 and 13 are believed allowable over the cited references because these claims depend from an allowable base claim.

Conclusions

Based on the above remarks, Applicant requests that a timely Notice of Allowance be issued in this case.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

July 16, 2005

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